

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0361P

Sales Tax and Use Tax

Calendar Years 1997, 1998, and 1999

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is engaged in retail sales consisting of clothing and accessories. Taxpayer has approximately two hundred stores, five of which are in Indiana.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting its use taxes.

Taxpayer protests the penalty based upon reasonable cause, primarily, that it used ordinary care and prudence in preparation of its tax renditions, the majority of the issues in the audit were minor compared to the total dollars reported and it is timely on all occasions.

A review of the current audit revealed the taxpayer made no attempt to self assess use tax on clearly taxable items and had no use tax accrual system in place. The penalty is appropriate as the taxpayer made no effort to self assess use tax as required under IC 6-2.5-3-2.

FINDING

Taxpayer's protest is denied.